

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

ROBERT MOORE,

Plaintiff,

Case No. 3:04 CV 7337

-vs-

MEMORANDUM OPINION
AND ORDER

JESSE WILLIAMS, WARDEN,

Defendant.

KATZ, J.

Pending before this Court is the Report and Recommendation (“R & R”) of Magistrate Judge Patricia A. Hemann filed February 14, 2005 (Doc. No. 20) as to which Petitioner, Robert Moore (“Moore”), has filed objections. Moore has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254; he was at the time of the filing of that petition, May, 28, 2004 in the custody of the Ohio Department of Rehabilitation and Correction pursuant to sentence by the Lucas County Common Pleas Court in 1999.

In accordance with *Hill v. Duriron Co.*, 656 F.2d 1208 (6th Cir. 1981), and 28 U.S.C. § 636(b)(1)(B) & (C), this Court has made a *de novo* determination of the Magistrate’s findings to which the Plaintiff objects. For the following reasons, the Court finds Plaintiff’s objections are not well taken and the same are denied.

Magistrate Judge Hemann’s R & R sets forth with significant particularity the procedural history of this case and proceeds to analyze the four grounds of relief asserted by Moore in his

petition for the writ. Additionally, this case has gone through the Ohio state court system and been denied a writ of certiorari by the United States Supreme Court.

The Court has also reviewed the 19 page memorandum supporting Petitioner's objection to the R & R. While the memorandum is in great detail and well written, it is a rehash of those matters already reviewed and rejected by Magistrate Judge Hemann.

Because this Court finds that the Magistrate Judge's R & R sets forth all salient aspects of this matter and addresses in an extremely cogent manner an analysis of each of Petitioner's four grounds for relief, this Court finds that it is unnecessary to restate those findings in this memorandum opinion. Instead, the Court will adopt the R & R as if incorporated herein.

Wherefore, Moore's petition for writ of habeas corpus is denied and this case dismissed. Further, the Court finds that there are no legal points which would be arguable on their merits in an appeal of this case. Furthermore, the Court has determined *sua sponte* that no certificate of probable cause should issue in this case as any appeal would lack substantial merit.

It is therefore,

ORDERED, that the Report and Recommendation be, and hereby is, adopted as the Order of this Court.

FURTHER ORDERED that under 28 U.S.C. §1915(a), an appeal of this case should not proceed *in forma pauperis* as it would not be taken in good faith.

FURTHER ORDERED that a motion for certificate of probable cause under 28 U.S.C. §2253 is hereby denied *sua sponte*.

S/ David A. Katz
DAVID A. KATZ
SENIOR U. S. DISTRICT JUDGE